

PACIFIC TRIAL ATTORNEYS
A Professional Corporation
Scott J. Ferrell, Bar No. 202091
sferrell@pacifictrialattorneys.com
4100 Newport Place, Ste. 800
Newport Beach, CA 92660
Tel: (949) 706-6464
Fax: (949) 706-6469

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ANNETTE CODY, individually and on
behalf of all others similarly situated,

Plaintiffs,

vs.

COLUMBIA SPORTSWEAR CO., an
Oregon corporation; and DOES 1 through
25, inclusive,

Defendants.

Case No. 8:22-cv-01654-DOC-JDE
Judge: Hon. David O. Carter

**NOTICE OF DISMISSAL WITH
PREJUDICE PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE 41(a)(1)(A)(i)**

Complaint Filed: August 2, 2022
Action Removed: September 7, 2022
Trial date: Not assigned

1 TO THE COURT, CLERK AND ALL PARTIES OF RECORD, please take
2 notice that Plaintiff Annette Cody (“Plaintiff”) hereby dismisses the instant action
3 against Defendant Columbia Sportswear Co. (“Defendant”) pursuant to Rule
4 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure *with prejudice* as to the
5 Plaintiff’s individual claims, and *without prejudice* as to the putative class.

6 Pursuant to Rule 23(e), “the district court should inquire into possible prejudice
7 from (1) class members’ possible reliance on the filing of the action if they are likely to
8 know of it either because of publicity or other circumstances, (2) lack of adequate time
9 for class members to file other actions, because of a rapidly approaching statute of
10 limitations, (3) any settlement or concession of class interests made by the class
11 representative or counsel in order to further their own interests.” *Diaz v. Trust*
12 *Territory of the Pacific Islands*, 876 F.2d 1401, 1408 (9th Cir. 1989).

13 In this instance, the *Diaz* factors weigh in favor of dismissal of Plaintiff’s
14 individual claims with prejudice. First, it is the Plaintiff’s counsel’s understanding that
15 this action has not been publicized in any way and as such, the putative class members
16 are highly unlikely to have knowledge of it, or to have relied upon it in any way.
17 Similarly, Plaintiff’s counsel is unaware of any other circumstances that may have led
18 to the putative class’s knowledge of, or reliance upon, this action.

19 Second, the statute of limitations in this action is not approaching. Plaintiff’s
20 claims arose in July 2022 and as such, based on the four-year statute of limitations
21 alleged in this action, the statute of limitations shall not run until July 2026. As such,
22 the rights of the putative class are preserved by the solely individual dismissal of
23 Plaintiff’s claims with prejudice.

24 Lastly, Plaintiff and her counsel made no settlement or concession of class
25 interests in order to resolve Plaintiff’s individual claims. Indeed, the resolution reached
26 between the Parties does not address, affect, or change the putative class’s rights or
27 claims in any manner.

1 An evaluation of the foregoing *Diaz* factors weigh in favor of dismissal of
2 Plaintiff's individual claims with prejudice, and dismissal of the putative class's claims
3 without prejudice.

4 Respectfully submitted,

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6 Dated: December 2, 2022

PACIFIC TRIAL ATTORNEYS, APC

7 By: /s/ Scott J. Ferrell

8 Scott. J. Ferrell

9 Attorneys for Plaintiff
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CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2022, I electronically filed the foregoing
**NOTICE OF DISMISSAL WITH PREJUDICE PURSUANT TO FEDERAL
RULE OF CIVIL PROCEDURE 41(a)(1)(A)(i)** with the Clerk of the Court using the
CM/ECF system, which will send notification of such filing via electronic mail to all
counsel of record.

/s/ Scott J. Ferrell
Scott J. Ferrell